

CITY OF ENCINITAS
Development Services Department
505 S. Vulcan Ave
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OWNER-BUILDER NOTICE & INFORMATION

Considering Becoming an Owner-Builder?



Important information you need to know ***BEFORE*** pulling your permit!

The term “Owner-Builder” can mean three different things:
“Owner as *Worker*”, “Owner as *Contractor*” or “Owner as *Employer*”

Understand each has Benefits or Risk, and it is possible to combine them!

Hiring a California Licensed Contractor means you do not personally perform any of the construction work, the permit is not taken out in your name, you are not personally responsible for the construction and you are *not* an Owner-Builder. Instead, you become a “Customer” and California law provides you the benefit of protection from poor workmanship, failure to finish the job and financial risk due to worker injury.

Benefit/Risk: **Highest Benefits and the Least amount of Risk**

Owner-as- *Worker* is a type of Owner-Builder where you *personally perform* the construction work, the permit is taken out in your name and you are *personally responsible* for the construction management, knowledge, workmanship, and completion of the job. You benefit by not paying others to perform this work for you and your risk depends on your own ability to complete the job successfully.

Benefit/Risk: **Possible Benefit with Low Financial Risk**

Owner-as- *Contractor* is a type of Owner-Builder where you personally act as your own General Contractor, the permit is taken out in your name and you hire California licensed sub-contractors to perform portions of the construction work. **WARNING:** The benefit of protection provided by law when you hire only California licensed sub-contractors can turn to serious financial risk if you hire *unlicensed* contractors to perform *any* of the work.

Benefit/Risk: **Possible Benefit and Significant Financial Risk**

Owner-as- *Employer* is a type of Owner-Builder where you pay *any* unlicensed individual to perform *any* construction work valued at more than \$500.00, the permit is taken out in your name and you are personally responsible for their employment requirements, supervision, performance, safety and welfare while on your property. **WARNING:** Cost savings benefit can turn to serious financial risk if you fail to deduct *payroll taxes* or provide *workers compensation insurance* for each worker.

Benefit/Risk: **Possible Benefit with Significant Financial Risk**

(Health and Safety Code Section 19827) The California Legislature declares an “urgent and statewide public interest in assuring” that contractors comply with Contractors’ License Law, Business and Professions Code and Workers’ Compensation Insurance requirements to ensure property owners are informed about, and protected from the following when improving their property as Owner-Builders:

Fraudulent representations ▪ Liability for worker’s injuries ▪ Liability for material and labor costs unpaid by contractors ▪ Licensing requirements ▪ Employers tax liabilities

Over 20,000 consumer complaints are filed each year. Many complaints relate to owner/builder projects and include workmanship and workers’ compensation issues. Homeowners suffer financial harm due to defective workmanship and injured employees.

Following are examples of what has occurred with Owner-Builder permits:

Example 1: Homeowner received insurance money to rebuild burned-down home.

- Owner/Builder permit pulled to rebuild structure.
- Unlicensed contractor built substandard structure – must be torn down and replaced.
- Estimated financial injury is \$225,000.
- Additional financial injury - IRS threatened to tax insurance payout if house not completed by the end of the year.

Example 2: Brother-in-law had active license but filed an exemption from Workers Comp.

- Owner-Builder hires brother-in-law to install a new roof.
- Employee falls and sustains multiple spinal and extremity fractures as well as a head injury and remains in a coma to this day.
- The Owner-Builder, who has sold the home, is now a defendant in a lawsuit for reimbursement for benefits paid to the injured worker.

Example 3: Employee of contractor without Workers Comp is hired by Owner-Builder to install septic system and suffers injury that results in permanent disability.

- The Owner-Builder did not have a homeowner’s insurance policy on the house against which to submit a claim.
- The Owner-Builder is now a defendant in a lawsuit for reimbursement for benefits paid to the injured worker.

Did you know – unlicensed persons frequently have the property owner obtain an “Owner-Builder” building permit which erroneously implies that the property owner is providing his or her own labor and material personally?

Did you know – your homeowner’s insurance may not provide coverage for injuries sustained on your property by an unlicensed contractor and his/her employees?

Did you know – if you are considered an “employer” under state and federal law, you must register with the state and federal government, withhold payroll taxes, provide workers compensation and disability insurance and contribute to unemployment compensation for each “employee”?

Did you know – that if you fail to abide by these laws you may be subjected to serious financial risk?

**OWNERS BEWARE AND CONSIDER THE RISK BEFORE ACCEPTING FULL
RESPONSIBILITY FOR YOUR CONSTRUCTION PERMIT**

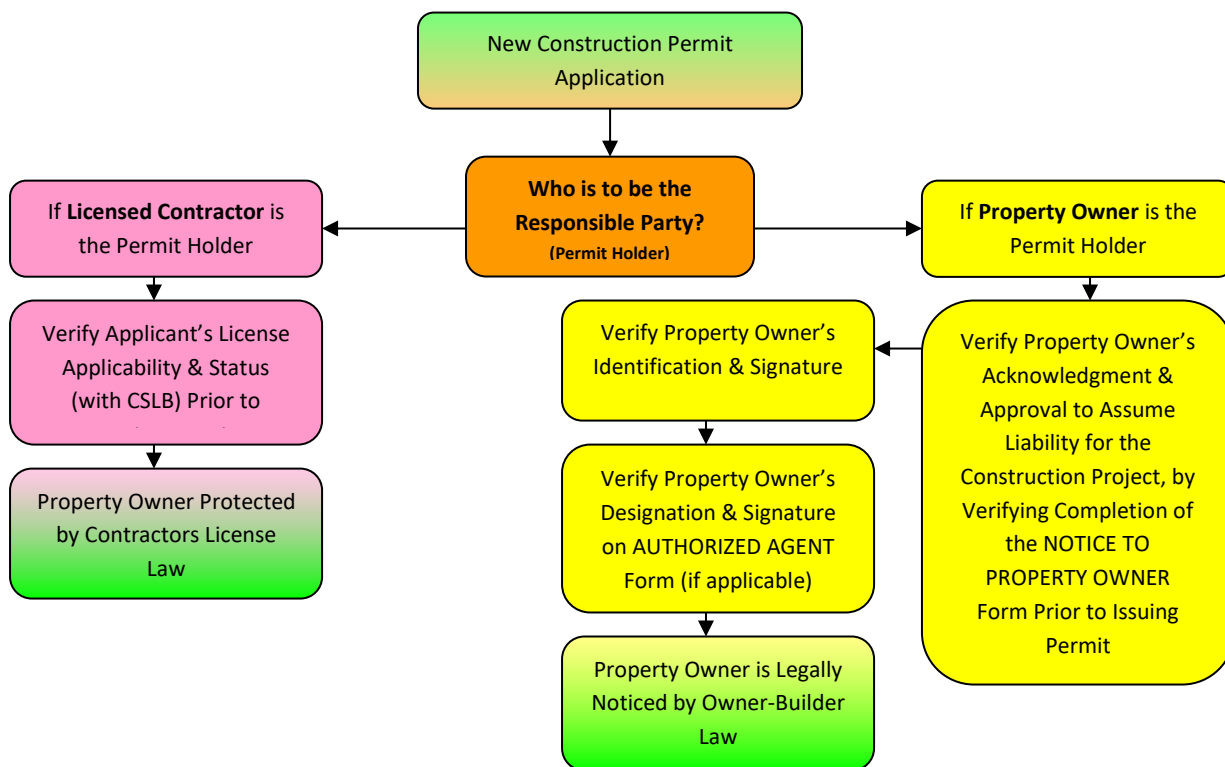
NOTICE

Effective January 1, 2009

Assembly Bill 2335 amends California Health and Safety Code, Section 19825, regarding disclosures and verifications required for all applicants seeking Owner-Builder construction permits. These new application requirements provide an enhanced level of consumer awareness and protection for property owners accepting the risks associated with Owner-Builder construction permits.

“The Legislature hereby finds and declares that there is an urgent and statewide public interest in assuring that building contractors comply with the Contractors License Law...and provisions of law relating to Workers' Compensation Insurance for building construction, that property owners are informed about, and protected from, fraudulent representations, liability for worker's injuries, liability for material and labor costs unpaid by contractors, licensing requirements, and employer's tax liabilities when improving their property as owner-builders”

THIS OFFICE WILL BE ENFORCING THESE REQUIREMENTS AS FOLLOWS:





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ACKNOWLEDGMENT OWNER-BUILDER PROPERTY OWNER'S PACKAGE

Disclosures & Acknowledgments for Owner-Builders Applying for Construction Permits

IMPORTANT! NOTICE TO PROPERTY OWNER

Dear Property Owner:

An application for a building permit (Case # _____) has been submitted in your name listing yourself as the builder of the property improvements specified at _____.

We are providing you with an Owner-Builder Acknowledgment and Information Verification Form to make you aware of your responsibilities and possible risk you may incur by having this permit issued in your name as the Owner-Builder. **We will not issue a building permit until you have submitted this document, acknowledging your understanding of each provision as outlined below.** An agent of the owner cannot execute this notice unless you, the property owner, obtain the prior approval of the permitting authority.

OWNER'S ACKNOWLEDGMENT AND VERIFICATION OF INFORMATION

1. I understand a frequent practice of unlicensed persons is to have the property owner obtain an "Owner-Builder" building permit that erroneously implies that the property owner is providing his or her own labor and material personally. I, as an Owner-Builder, may be held liable and subject to serious financial risk for any injuries sustained by an unlicensed person and his or her employees while working on my property. My homeowner's insurance may not provide coverage for those injuries. I am willfully acting as an Owner-Builder and am aware of the limits of my insurance coverage for injuries to workers on my property.

2. I understand building permits are not required to be signed by property owners unless they are responsible for the construction and are not hiring a licensed Contractor to assume this responsibility.

3. I understand as an "Owner-Builder" I am the responsible party of record on the permit. I understand that I may protect myself from potential financial risk by hiring a licensed Contractor and having the permit filed in his or her name instead of my own.

4. I understand Contractors are required by law to be licensed and bonded in California and to list their license numbers on permits and contracts.

5. I understand if I employ or otherwise engage any persons, other than California licensed Contractors, and the total value of my construction is at least five hundred dollars (\$500), including labor and materials, I may be considered an "employer" under state and federal law.

6. I understand if I am considered an "employer" under state and federal law, I must register with the state and federal government, withhold payroll taxes, provide workers' compensation disability insurance, and contribute to unemployment compensation for each "employee." I also understand my failure to abide by these laws may subject me to serious financial risk.

7. I understand under California Contractors' State License Law, an Owner-Builder who builds single-family residential structures cannot legally build them with the intent to offer them for sale, unless *all* work is performed by licensed subcontractors and the number of structures does not exceed four within any calendar year, or all of the work is performed under contract with a licensed general building Contractor.

8. I understand as an Owner-Builder if I sell the property for which this permit is issued, I may be held liable for any financial or personal injuries sustained by any subsequent owner(s) that result from any latent construction defects in the workmanship or materials.

9. I understand I may obtain more information regarding my obligations as an "employer" from the Internal Revenue Service, the United States Small Business Administration, the California Department of Benefit Payments, and the California Division of Industrial Accidents. I also understand I may contact the California Contractors' State License Board (CSLB) at 1-800-321-CSLB (2752) or www.cslb.ca.gov for more information about licensed contractors.

10. I am aware of and consent to an Owner-Builder building permit applied for in my name, and understand that I am the party legally and financially responsible for proposed construction activity at the following address:

11. I agree that, as the party legally and financially responsible for this proposed construction activity, I will abide by all applicable laws and requirements that govern Owner-Builders as well as employers.

12. I agree to notify the issuer of this form immediately of any additions, deletions, or changes to any of the information I have provided on this form. Licensed contractors are regulated by laws designed to protect the public. If you contract with someone who does not have a license, the Contractors' State License Board may be unable to assist you with any financial loss you may sustain as a result of a complaint. Your only remedy against unlicensed Contractors may be in civil court. It is also important for you to understand that if an unlicensed Contractor or employee of that individual or firm is injured while working on your property, you may be held liable for damages. If you obtain a permit as Owner-Builder and wish to hire Contractors, you will be responsible for verifying whether or not those Contractors are properly licensed and the status of their workers' compensation insurance coverage.

Before a building permit can be issued, this form must be completed and signed by the property owner and returned to the agency responsible for issuing the permit.

By checking this box, I verify I have read and agree to the information as listed above.

By checking this box, I declare under penalty of perjury that I am the property owner for the address listed above and I personally filled out the above information and certify its accuracy.

Signature: _____ Date: _____